

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

AMENDED TENTATIVE ORDER NO. R9-2003-0291
ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
AGAINST
RYLAND HOMES OF CALIFORNIA, INC.
VIOLATIONS
OF
CALIFORNIA WATER CODE §§ 13267, 13383, AND 13376
AND
STATE WATER RESOURCES CONTROL BOARD
ORDER NO. 99-08-DWQ

The San Diego Regional Water Quality Control Board (hereafter Regional Board), having received an offer by Ryland Homes of California, Inc. (Ryland) to waive its right to a hearing regarding violations alleged in Complaint No. R9-2003-0162, dated June 5, 2003, (Complaint) and settle its civil liability for any violations alleged therein by paying Civil Liability in the amount of \$88,850 (instead of the \$158,350 recommended in the Complaint), and having provided public notice thereof and not less than 30 days for public comment on the settlement offer, and having received no comments objecting to the settlement, and having considered the settlement offer, finds as follows:

1. The State Water Resources Control Board (hereafter State Board) has issued updated statewide general waste discharge requirements for discharges of storm water runoff associated with construction activities involving disturbance of one acre of soil, or more. [*Order No. 99-08-DWQ, NPDES No. CAS000002* (Order).]
2. Ryland owns the 73.1 acre property described as “Serenada” located along Jackson Avenue and Nutmeg Street, City of Murrieta, Riverside County, California, and began construction activity at the Serenada site on September 1, 2002 without first filing a “Notice of Intent,” as required by Section A.2. of the Order; Ryland filed its Notice of Intent 191 days late, on March 11, 2003 (WDID No. 9 33S320505).
3. Ryland failed to implement or maintain Best Management Practices (BMPs) set forth in its Storm Water Pollution Prevention Plan, in violation of section C.2 of the Order, which failure resulted in unauthorized discharges of sediment to the City of Murrieta’s Municipal Separate Storm Sewer System and Murrieta Creek, a tributary to the Santa Margarita River and Pacific Ocean, in violation of Water Code section 13376 and section A.2 of the Order on January 28, 2003, February 11, 2003, February 13, 2003, and February 28, 2003.
4. Ryland failed to submit an adequate technical report to the Regional Board by March 23, 2003, as required by the Regional Board pursuant to Section 13267 of the Water Code; Ryland submitted the report 68 days late, on June 5, 2003.
5. Consideration of the factors prescribed in California Water Code Section 13385(e) based upon information available to the Regional Board prior to the hearing and described in greater detail in *California Regional Water Quality Control Board, San Diego Region, Technical Analysis, Proposed Administrative Civil Liability Contained In Complaint No. R9-2003-0162, Ryland Homes of California, Inc., June 5, 2003* supported assessment of

civil liability in the amount of \$158,350 as follows:

- a. \$10,000 per day for discharging sediment to "Waters of the United States" for four days for a total of \$40,000;
 - b. \$1,500 per day for failing to implement an adequate Storm Water Pollution Prevention Plan (SWPPP) for 68 days for a total of \$102,000 (Note, the Technical Analysis and Complaint inaccurately counted the days of inadequate SWPPP as 68 days instead of 56.);
 - c. \$50 per day for failing to file a Notice of Intent (NOI) for 191 days of violation of Water Code section 13376 for a total of \$9,550; and
 - d. \$100 per day for failing to submit the technical report for 68 days of violation of Water Code sections 13267 and 13383 for a total of \$6,800.
6. By accepting the settlement offer tendered by Ryland, involving payment of less than the recommended civil liability without the need for a hearing, the Regional Board will conserve valuable staff resources that would have been allocated to preparation for the hearing and responding to any administrative or judicial review requested by Ryland; in addition, Ryland has brought the Serenada site into compliance with the Order and has agreed to ensure full compliance with the Order at all other current and future sites owned by Ryland within the San Diego region. Furthermore, the reduced amount of liability tendered by Ryland is sufficient to deter Ryland from future non-compliance, and should act as a deterrent to non-compliance by other developers.
7. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with section 15321, Chapter 3, Title 14, California Code of Regulations.
8. The Regional Board incurred costs totaling \$27,520, which includes investigation, preparation of enforcement documents, and communication with the discharger and interested parties regarding the enforcement action. At the time the Complaint was issued the Regional Board had incurred \$18,400 in costs as detailed in the Technical Analysis.

IT IS HEREBY ORDERED that civil liability is imposed on Ryland Homes of California, Inc. in the amount of eighty-eight thousand eight hundred and fifty dollars (\$88,850).

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on November 12, 2003.

Tentative

JOHN H. ROBERTUS
Executive Officer